



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

December 29, 1994

Mr. Gary Collins  
Superintendent  
Texarkana Independent School District  
4241 Summerhill Road  
Texarkana, Texas 75503

OR94-842

Dear Mr. Collins:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 29505.

The Texarkana Independent School District ("the school district") received a request for various financial information. You enclosed four exhibits as representative samples of the requested information.<sup>1</sup> The exhibits consist of a handwritten payroll, a payroll master with a table of payroll deduction codes, a monthly payroll trial register for one employee, and certain annuity documentation. You ask whether these exhibits contain confidential information.

The common-law right to privacy protects some, but not all, financial information about an individual. The test for whether the public release of information violates an individual's common-law right to privacy is two-prong: (1) the information must contain highly intimate or embarrassing facts about a person's private affairs such that its release would be highly objectionable to a reasonable person and (2) the information must be of no legitimate concern to the public. See *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), cert. denied, 430 U.S. 931 (1977). Information that is private under the *Industrial Foundation* test, must be withheld from required public disclosure under section 552.101 of the Government Code, which excepts from disclosure information that is considered to be confidential by law.

---

<sup>1</sup>Your correspondence with the requestor indicates that you are seeking clarification of part of the request.

Financial information relating to an individual ordinarily satisfies the first requirement of the test for common-law privacy, but there is a legitimate public interest in the essential facts about a financial transaction between an individual and a governmental body. Open Records Decision No. 600 (1992) at 9. Thus, the common-law right to privacy does not protect from disclosure the salary of a public employee. Nor does it shield information about an employee's participation in a group insurance program that is funded by the state, or an employee's decision to level the state's payment toward that employee's social security contribution. *See id.* at 10.

On the other hand, financial information about a public employee's participation in a voluntary investment program that his employer offers is private information and of no legitimate interest to the public. *See* Open Records Decision No. 545 (1990) at 3-5. Similarly, information about an employee's decision to enroll for optional insurance coverage funded entirely by the employee or to allocate some of his compensation to TexFlex benefits is a private financial decision. *See* Open Records Decision No. 600, at 11.

We turn now to the exhibits you submitted to this office. Exhibit 1, the handwritten payroll, does not contain private information. The public has a legitimate interest in the financial information on the payroll, including the employee's salary and the amounts the school district paid for group insurance, workers' compensation and unemployment. The other information on this document, including the information about leave, is also public information.

Exhibit 2, the payroll master, and Exhibit 3, a payroll trial register and a table of payroll master deductions, contain some private financial information. You inform us that one of the voluntary deductions is for the payment of child support. This is private information, as are the amounts of the other voluntary deductions. Other examples of private information by code number include the following: 656- IRS, 001-credit union, 044-United Fund. In addition, all other financial information on Exhibits 2 and 3 that does not involve a transaction between the employee and the school district is private.

Finally, we consider Exhibit 4. We find no private financial information on the "Budgetary Expenditure Period Detail Report" for the month of September, 1994. In addition, the public has a legitimate interest in the records of annuity payments the school district made on behalf of an employee. *See* Open Records Decision No. 600. Consequently, Exhibit 4 contains no information that is protected from disclosure by common-law privacy.

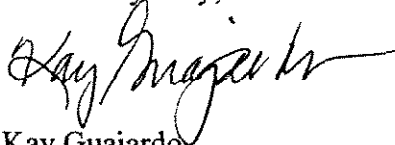
We note that the information you submitted contains the social security numbers of school district employees. Social security numbers may be withheld under section 552.101 of the Government Code. Under some circumstances, a social security number or "related record" may be excepted from disclosure under section 552.101 in conjunction with the 1990 amendments to the federal Social Security Act, 42 U.S.C. § 405(c)(2)(C)(vii). *See* Open Records Decision No. 622 (1994). These amendments

make confidential social security numbers and related records that are obtained and maintained by a state agency or political subdivision of the state pursuant to any provision of law enacted on or after October 1, 1990. *See id.* We have no basis for concluding that any of the social security numbers in the file are confidential under section 405(c)(2)(C)(vii), and therefore excepted from public disclosure under section 552.101 of the Open Records Act on the basis of that federal provision. We caution, however, that section 552.353 of the Open Records Act imposes criminal penalties for the release of confidential information. Prior to releasing any social security number information, you should ensure that no such information was obtained or is maintained by the school district pursuant to any provision of law, enacted on or after October 1, 1990.

The information at issue also contains the home telephone number and home address of school district employees. Section 552.117 of the Government Code protects from required public disclosure the home address or home telephone number of a current or former official or employee of a governmental body who has complied with section 552.024 of the Government Code. Section 552.024 sets forth procedures that a public employee must follow to deny public access to his or her home address and telephone number. Within a certain time limit, each employee and official must state in a signed writing whether that employee or official chooses to allow public access to the person's home address and telephone number. Gov't Code § 552.024. Accordingly, the school district must withhold the home address and telephone number of each employee who has complied with the provisions of section 552.024 of the Government Code.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Guajardo  
Assistant Attorney General  
Open Government Section

KHG/SLG/rho

Ref.: ID# 29505

Enclosures: Submitted documents

cc: Ms. Beth A. Swindler  
2702 Magnolia Street  
Texarkana, Texas 75503